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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 10/801,262 | 03/15/2004 | Aleksandra Niedzwiecki | RATH-012 | 2275 |
| 7590 | | 09/21/2007 | | |
| Ali Kamarei, Esq. 280 Colorado Avenue Palo Alto, CA 94301 | | | | |
| | | | EXAMINER | |
| | | | CHOI, FRANK I | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1616 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 09/21/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,262

Applicant(s)

NIEDZWIECKI ET AL.

Examiner

Frank I. Choi

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10,11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10,11 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/3/2007 has been entered.

Claim Objections

Claims 1, 2, 4 are objected to because of the following informalities: "Moylbdenum" should be "Molybdenum" and "Pottasium" should be "Potassium".. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-8, 10, 11, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boulos et al. (US Pat. 6,914,073) in view of Gravish et al. and Tedeschi et al..

Boulos et al. disclose composition for benefiting cardiovascular health, including slowing the progression of atherosclerosis containing lysine, proline, arginine, Vitamin C, magnesium, green tea, selenium, copper and manganese which can be administered orally as a tablet or capsule which are formulated using various excipients (Column 3, lines 40-55, Column 6, lines

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10-20, 40-46, Column 7, lines 65-67, Column 9, lines 8-26, Columns 11, 12). It is disclose that the composition can also contain molybdenum and potassium (Column 6, lines 40-54).

Gavish et al. disclose that high levels of lipoprotein (a) is associated with atherosclerotic disease and that administration of N-acetylcysteine was effective in lowering plasma levels of lipoprotein (a) (Abstract).

Tedeschi et al. disclose that both Green Tea and vitamin C have antiinflammatory activity (Page 435).

The prior art discloses the combination of lysine, proline, arginine, Vitamin C, magnesium, green tea, selenium, copper, manganese, molybdenum and potassium for slowing the progression of atherosclerosis and benefiting cardiovascular health. The difference between the prior art and the claimed invention is that the prior art does not expressly disclose the treatment of inflammation or the addition of acetyl-cysteine. However, the prior art amply suggests the same as the prior art discloses that acetyl cysteine is effective in lowering high lipoprotein (a) plasma levels, which is a risk factor for atherosclerosis and that Vitamin C and Green Tea have anti-inflammatory activity. As such, it would have been well within the skill of and one of ordinary skill in the art would have expected that the combination of acetyl cysteine would add to the anti-atherosclerotic activity of the prior art composition and that the prior art composition would also be effective in treating inflammation.

The Examiner has duly considered the Applicant's arguments but deems them unpersuasive.

The Applicant argues that not all claim limitations are taught by the prior art, however, as indicated above the prior art does disclose and/or suggest the combination of lysine, proline,

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arginine, vitamin C, magnesium , green tea extract, N-acetyl-cysteine, selenium, copper, manganese and molybdenum and potassium. As such, the prior art does teach or suggest the claimed invention.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

Conclusion

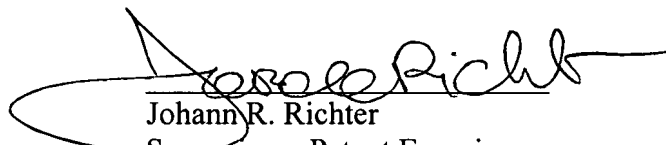
A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a compressed schedule and may be reached Monday, Tuesday, Thursday, Friday, 6:00 am – 4:30 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Johann R. Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi
Patent Examiner
Technology Center 1600
September 17, 2007


Johann R. Richter
Supervisory Patent Examiner
Technology Center 1600